

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 12

Short Title: Four-Year Term Implementing. (Public)

Sponsors: Senators Weinstein; Albertson, Apodaca, Bingham, Dalton, Forrester,
Garwood, Holloman, Kinnaird, Pittenger, Purcell, Shaw, and Smith.

Referred to: Ways and Means.

January 31, 2005

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT AN ACT TO AMEND THE NORTH CAROLINA
2 CONSTITUTION TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF
3 THE GENERAL ASSEMBLY.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7A-140 reads as rewritten:

7 "**§ 7A-140. Number; election; term; qualification; oath.**

8 There shall be at least one district judge for each district. Each district judge shall be
9 elected by the qualified voters of the district court district in which he is to serve at the
10 time of the election for members of the General Assembly specified by Chapter 163 of
11 the General Statutes. The number of judges for each district shall be determined by the
12 General Assembly. Each judge shall be a resident of the district for which elected, and
13 shall serve a term of four years, beginning on the first Monday in December following
14 his election.

15 Each district judge shall devote his full time to the duties of his office. He shall not
16 practice law during his term, nor shall he during such term be the partner or associate of
17 any person engaged in the practice of law.

18 Before entering upon his duties, each district judge, in addition to other oaths
19 prescribed by law, shall take the oath of office prescribed for a judge of the General
20 Court of Justice."

21 **SECTION 2.** G.S. 120-11.1 reads as rewritten:

22 "**§ 120-11.1. Time of meeting.**

23 The regular session of the Senate and House of Representatives shall be held
24 biennially beginning at 12:00 noon on the third Wednesday after the second Monday in
25 January next after their election, of each odd-numbered year."

26 **SECTION 3.** G.S. 147-4 reads as rewritten:

27 "**§ 147-4. Executive officers – election; term; induction into office.**

1 The executive department shall consist of a Governor, a Lieutenant Governor, a
2 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an
3 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a
4 Commissioner of Labor, who shall be elected for a term of four years, by the qualified
5 electors of the State, ~~at the same time and places, and in the same manner, as members~~
6 ~~of the General Assembly are elected.~~ as provided by Chapter 163 of the General
7 Statutes. Their term of office shall commence on the first day of January next after their
8 election and continue until their successors are elected and qualified. The persons
9 having the highest number of votes, respectively, shall be declared duly elected, but if
10 two or more be equal and highest in votes for the same office, then one of them shall be
11 chosen by joint ballot of both houses of the General Assembly. Contested elections shall
12 be determined by a joint ballot of both houses of the General Assembly in such manner
13 as shall be prescribed by law."

14 **SECTION 4.** G.S. 152-1 reads as rewritten:

15 "**§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

16 In each county a coroner shall be elected by the qualified voters thereof ~~in the same~~
17 ~~manner and at the same time as the election of members of the General Assembly as~~
18 provided by Chapter 163 of the General Statutes and shall hold office for a term of four
19 years, or until his successor is elected and qualified.

20 A vacancy in the office of coroner shall be filled by the county commissioners, and
21 the person so appointed shall, upon qualification, hold office until his successor is
22 elected and qualified. If the coroner were elected as the nominee of a political party,
23 then the county commissioners shall consult with the county executive committee of
24 that political party before filling the vacancy, and shall appoint the person
25 recommended by that committee if the party makes a recommendation within 30 days
26 of the occurrence of the vacancy; this sentence shall apply only to the counties of
27 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,
28 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,
29 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
30 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

31 When the coroner shall be out of the county, or shall for any reason be unable to
32 hold the necessary inquest as provided by law, or there is a vacancy existing in the
33 office of coroner which has not been filled by the county commissioners and it is made
34 to appear to the clerk of the superior court by satisfactory evidence that a deceased
35 person whose body has been found within the county probably came to his death by the
36 criminal act or default of some person, it is the duty of the clerk to appoint some
37 suitable person to act as coroner in such special case."

38 **SECTION 5.** G.S. 161-1, now superseded by G.S. 161-2, is repealed.

39 **SECTION 6.** G.S. 162-1 reads as rewritten:

40 "**§ 162-1. Election and term of office.**

41 In each county a sheriff shall be elected by the qualified voters thereof, as is
42 prescribed ~~for members of the General Assembly by~~ Chapter 163 of the General
43 Statutes, and shall hold his office for four years."

1 **SECTION 7.** G.S. 163-1 is amended in the table by rewriting the "DATE
2 OF ELECTION" entries for State Senator and member of the State House of
3 Representatives to read: "Tuesday next after the first Monday in November 2004 and
4 every four years thereafter".

5 **SECTION 8.** G.S. 163-1 is further amended in the table by rewriting the
6 "TERM OF OFFICE" entries for State Senator and member of the State House of
7 Representatives to read: "Four years".

8 **SECTION 9.** G.S. 163-1 is further amended in the table by rewriting the
9 "DATE OF ELECTION" entries for justices and judges of the Appellate Division,
10 judges of the superior courts, judges of the district courts, district attorney, county
11 commissioners, clerk of superior court, register of deeds, sheriff, and coroner to read:
12 "At the next regular statewide election for members of the United States House of
13 Representatives, immediately preceding the termination of each regular term".

14 **SECTION 10.** G.S. 163-8 reads as rewritten:
15 **"§ 163-8. Filling vacancies in State executive offices.**

16 If the office of Governor or Lieutenant Governor shall become vacant, the
17 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers
18 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall
19 be the duty of the Governor to appoint another to serve until his successor is elected and
20 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,
21 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and
22 Commissioner of Insurance. Each such vacancy shall be filled by election at the first
23 statewide election for members of the ~~General Assembly~~ United States House of
24 Representatives that occurs more than 60 days after the vacancy has taken place, and the
25 person chosen shall hold the office for the remainder of the unexpired four-year term:
26 Provided, that when a vacancy occurs in any of the offices named in this section and the
27 term expires on the first day of January succeeding ~~the next election for members of the~~
28 General Assembly ~~the next statewide election for members of the~~ United States House
29 of Representatives, the Governor shall appoint to fill the vacancy for the unexpired term
30 of the office.

31 Upon the occurrence of a vacancy in the office of any one of these officers for any
32 of the causes stated in the preceding paragraph, the Governor may appoint an acting
33 officer to perform the duties of that office until a person is appointed or elected pursuant
34 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and
35 is qualified."

36 **SECTION 11.** G.S. 163-9 reads as rewritten:

37 **"§ 163-9. Filling vacancies in State and district judicial offices.**

38 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of
39 the Court of Appeals, and judge of the superior court for causes other than expiration of
40 term shall be filled by appointment of the Governor. An appointee to the office of
41 Justice of the Supreme Court or judge of the Court of Appeals shall hold office until
42 January 1 next following the next statewide election for members of the ~~General~~
43 Assembly ~~United States House of Representatives~~ that is held more than 60 days after

1 the vacancy occurs, at which time an election shall be held for an eight-year term and
2 until a successor is elected and qualified.

3 (b) Except for judges specified in the next paragraph of this subsection, an
4 appointee to the office of judge of superior court shall hold his place until the next
5 statewide election for members of the ~~General Assembly~~ United States House of
6 Representatives that is held more than 60 days after the vacancy occurs, at which time
7 an election shall be held to fill the unexpired term of the office.

8 Appointees for judges of the superior court from any district:

9 (1) With only one resident judge; or

10 (2) In which no county is subject to section 5 of the Voting Rights Act of
11 1965,

12 shall hold the office until the next statewide election of members of the ~~General~~
13 ~~Assembly~~ United States House of Representatives that is held more than 60 days after
14 the vacancy occurs, at which time an election shall be held to fill an eight-year term.

15 (c) When the unexpired term of the office in which the vacancy has occurred
16 expires on the first day of January succeeding the next statewide election for members
17 of the ~~General Assembly~~ United States House of Representatives, the Governor shall
18 appoint to fill that vacancy for the unexpired term of the office.

19 (d) Vacancies in the office of district judge which occur before the expiration of
20 a term shall not be filled by election. Vacancies in the office of district judge shall be
21 filled in accordance with G.S. 7A-142."

22 **SECTION 12.** G.S. 163-10 reads as rewritten:

23 "**§ 163-10. Filling vacancy in office of district attorney.**

24 Any vacancy occurring in the office of district attorney for causes other than
25 expiration of term shall be filled by appointment of the Governor. An appointee shall
26 hold his place until the next statewide election for members of the ~~General Assembly~~
27 United States House of Representatives that is held more than 60 days after the vacancy
28 occurs, at which time an election shall be held to fill the unexpired term of the office:
29 Provided, that when the unexpired term of the office in which the vacancy has occurred
30 expires on the first day of January succeeding the next statewide election for members
31 of the ~~General Assembly~~ United States House of Representatives, the Governor shall
32 appoint to fill that vacancy for the unexpired term of the office."

33 **SECTION 13.** G.S. 163-12 reads as rewritten:

34 "**§ 163-12. Filling vacancy in United States Senate.**

35 Whenever there shall be a vacancy in the office of United States Senator from this
36 State, whether caused by death, resignation, or otherwise than by expiration of term, the
37 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.
38 The Governor shall issue his writ for the election of a Senator to be held at the time of
39 the first statewide election for members of the ~~General Assembly~~ United States House
40 of Representatives that is held more than 60 days after the vacancy occurs. The person
41 elected shall hold the office for the remainder of the unexpired term. The election shall
42 take effect from the date of the canvassing of the returns."

43 **SECTION 14.** Each statute and each local act which states that a vacancy in
44 an elected office shall be filled until the next election for members of the General

1 Assembly, or similarly relies on the date of General Assembly elections as determining
2 when an event is to take place or the duration of an appointment, shall be considered
3 instead to use the date of the next statewide election of members of the United States
4 House of Representatives as the determining date for whatever purpose the date of the
5 General Assembly election is now used.

6 **SECTION 15.** Sections 1 through 14 of this act shall take effect only upon
7 approval of the voters of the constitutional amendments set forth in AN ACT TO
8 AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOUR-YEAR
9 TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY. If the constitutional
10 amendments proposed in those sections are approved by the voters, Sections 1 through
11 14 of this act shall become effective at the same time as the constitutional amendments.

12 **SECTION 16.** This act is effective when it becomes law.